

AMENDED IN ASSEMBLY MAY 2, 2005

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1087

**Introduced by Assembly Member DeVore
(Coauthor: Assembly Member Benoit)**

February 22, 2005

An act to amend Section 23114 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1087, as amended, DeVore. Vehicles: loads: spill prevention.

Existing law prohibits a vehicle from being driven or moved on any highway unless the vehicle is so constructed, covered, or loaded as to prevent any of its contents or load other than clear water or feathers from live birds from dropping, sifting, leaking, blowing, spilling, or otherwise escaping from the vehicle. A first-time violation of this prohibition is punishable as an infraction, and a second or subsequent violation occurring within 2 years of a prior violation is punishable as a misdemeanor.

This bill would ~~establish~~ *limit* the fine for an infraction violation of this provision to *a fine that is not to exceed a total of \$50* for each incident in which one or more objects are dropped, sifted, leaked, blown, or spilled, or otherwise escaped from the vehicle, if each of the objects is less than one pound in weight, or one cubic foot in volume, or 10 square feet in dimension, and to *a fine that is not to exceed a total of \$500* for each incident in which one or more of the escaped objects is equal to or more than those measurements.

Because this bill would increase the level of law enforcement services, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23114 of the Vehicle Code is amended
2 to read:

3 23114. (a) A vehicle may not be driven or moved on any
4 highway unless the vehicle is so constructed, covered, or loaded
5 as to prevent any of its contents or load other than clear water or
6 feathers from live birds from dropping, sifting, leaking, blowing,
7 spilling, or otherwise escaping from the vehicle.

8 (b) (1) Aggregate material shall only be carried in the cargo
9 area of a vehicle. The cargo area shall not contain any holes,
10 cracks, or openings through which that material may escape,
11 regardless of the degree to which the vehicle is loaded, except as
12 provided in paragraph (2).

13 (2) Every vehicle used to transport aggregate materials,
14 regardless of the degree to which the vehicle is loaded, shall be
15 equipped with all of the following:

16 (A) Properly functioning seals on any openings used to empty
17 the load, including, but not limited to, bottom dump release gates
18 and tailgates.

19 (B) Splash flaps behind every tire, or set of tires, regardless of
20 position on the truck, truck tractor, or trailer.

21 (C) Center flaps at a location to the rear of each bottom dump
22 release gate as to trucks or trailers equipped with bottom dump
23 release gates. The center flap may be positioned directly behind
24 the bottom dump release gate and in front of the rear axle of the
25 vehicle, or it may be positioned to the rear of the rear axle in line

1 with the splash flaps required behind the tires. The width of the
2 center flap may extend not more than one inch from one sidewall
3 to the opposite sidewall of the inside tires and shall extend to
4 within five inches of the pavement surface, and may be not less
5 than 24 inches from the bottom edge to the top edge of that
6 center flap.

7 (D) Fenders starting at the splash flap with the leading edge of
8 the fenders extending forward at least six inches beyond the
9 center of the axle which cover the tops of tires not already
10 covered by the truck, truck tractor, or trailer body.

11 (E) Complete enclosures on all vertical sides of the cargo area,
12 including, but not limited to, tailgates.

13 (F) Shed boards designed to prevent aggregate materials from
14 being deposited on the vehicle body during top loading.

15 (c) Vehicles comprised of full rigid enclosures are exempt
16 only from subparagraphs (C) and (F) of paragraph (2) of
17 subdivision (b).

18 (d) For purposes of this section, "aggregate material" means
19 rock fragments, pebbles, sand, dirt, gravel, cobbles, crushed base,
20 asphalt, and other similar materials.

21 (e) (1) In addition to subdivisions (a) and (b), a vehicle may
22 not transport any aggregate material upon a highway unless the
23 material is covered.

24 (2) Vehicles transporting loads composed entirely of asphalt
25 material are exempt only from the provisions of this section
26 requiring that loads be covered.

27 (3) Vehicles transporting loads composed entirely of
28 petroleum coke material are not required to cover their loads if
29 they are loaded using safety procedures, specialized equipment,
30 and a chemical surfactant designed to prevent materials from
31 blowing, spilling, or otherwise escaping from the vehicle.

32 (4) Vehicles transporting loads of aggregate materials are not
33 required to cover their loads if the load, where it contacts the
34 sides, front, and back of the cargo container area, remains six
35 inches from the upper edge of the container area, and if the load
36 does not extend, at its peak, above any part of the upper edge of
37 the cargo container area.

38 (f) Any person who provides a location for vehicles to be
39 loaded with any aggregate material or any other material shall

1 provide a location for vehicle operators to comply with this
2 section before entering a highway.

3 (1) A person is exempt from the requirements of this
4 subdivision if the location that he or she provides for vehicles to
5 be loaded with the materials described in this subdivision has 100
6 yards or less between the scale houses where the trucks carrying
7 aggregate material are weighed and the point of egress to a public
8 road.

9 (2) A driver of a vehicle loaded with aggregate material
10 leaving locations exempted from the requirements of this
11 subdivision is authorized to operate on public roads only until
12 that driver is able to safely cover the load at a site near the
13 location's point of egress to the public road. Except as provided
14 under paragraph (4) of subdivision (e), an uncovered vehicle
15 described in this paragraph may not operate more than 200 yards
16 from the point of egress to the public road.

17 (g) Notwithstanding Section 42001 or any other provision of
18 law, an infraction violation of this section shall be punished as
19 follows:

20 (1) By a fine *that is not to exceed a total* of fifty dollars (\$50)
21 for each incident in which one or more objects are dropped,
22 sifted, leaked, blown, or spilled, or otherwise escaped from the
23 vehicle, if each of the objects is less than one pound in weight, or
24 one cubic foot in volume, or 10 square feet in dimension.

25 (2) By a fine *that is not to exceed a total* of five hundred
26 dollars (\$500) for each incident in which one or more objects are
27 dropped, sifted, leaked, blown, or spilled, or otherwise escaped
28 from the vehicle, if one or more of the objects is equal to or more
29 than one pound in weight, or one cubic foot in volume, or 10
30 square feet in dimension.

31 SEC. 2. If the Commission on State Mandates determines that
32 this act contains costs mandated by the state, reimbursement to
33 local agencies and school districts for those costs shall be made
34 pursuant to Part 7 (commencing with Section 17500) of Division
35 4 of Title 2 of the Government Code.